

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

JERRY CABARRUS,

Plaintiff,

v.

KRAMER AND ASSOCIATES,

Defendant.

PLAINTIFF'S VERIFIED
COMPLAINT AND
DEMAND FOR JURY
TRIAL

JERRY CABARRUS ("Plaintiff"), through attorneys, KROHN & MOSS, LTD., alleges the following against KRAMER AND ASSOCIATES, ("Defendant"):

INTRODUCTION

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. 1692 et seq. (FDCPA).

2. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

JURISDICTION AND VENUE

3. Jurisdiction of this court arises pursuant to 15 U.S.C. 1692k(d), which states that such actions may be brought and heard before "any appropriate United States district court without regard to the amount in controversy."

4. Defendant conducts business in the state of Georgia, and, therefore, personal jurisdiction is established.

5. Venue is proper pursuant to 28 U.S.C. 1391(b)(2).

PARTIES

6. Plaintiff is a natural person residing in Atlanta, Fulton County, Georgia.

7. Plaintiff is a consumer as that term is defined by 15 U.S.C. 1692a(3), and according to Defendant, Plaintiff allegedly owes a debt as that term is defined by 15 U.S.C. 1692a(5).

8. Defendant is a debt collector as that term is defined by 15 U.S.C. 1692a(6), and sought to collect a consumer debt from Plaintiff.

9. Defendant is a company located in Riverdale, New Jersey that does business in the state of Georgia.

10. Defendant, in the ordinary course of business, regularly, on behalf of itself or others, engages in debt collection.

FACTUAL ALLEGATIONS

11. Upon information and belief, Defendant is collecting from Plaintiff on an alleged payday loan debt.

12. On or about March 14, 2011, Defendant began placing collection calls to Plaintiff.

13. Defendant threatened to garnish Plaintiff's wages and tax return.

14. Defendant did not identify itself as a debt collector to Plaintiff.

15. Defendant demanded a credit or debit card number and refused to accept a payment through the mail.

16. On March 14, 2011 at 4:40 p.m., Defendant left a voicemail stating that "a claim is pending against you in the State of Georgia" and "the claim will be forwarded for final processing." *See* transcribed voicemails attached as Exhibit "A."

17. On March 14, 2011 at 5:55 p.m., Defendant left a voicemail for Plaintiff that did not identify that it is a debt collector. *See* Exhibit “A.”

COUNT I
DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

18. Defendant violated the FDCPA based on the following:

- a. Defendant violated §1692d of the FDCPA by engaging in conduct the natural consequence of which is to annoy, harass and oppress Plaintiff.
- b. Defendant violated §1692e of the FDCPA by using false, deceptive or misleading representation or means in connection with the collection of Plaintiff's alleged debt.
- c. Defendant violated §1692e(5) of the FDCPA by threatening to take action against Plaintiff even though Defendant has not and does not intend to take such action.
- d. Defendant violated §1692e(10) of the FDCPA using false representations and/or deceptive means in an attempt to collect a debt.
- e. Defendant violated §1692e(11) of the FDCPA by failing to disclose in the initial communication with Plaintiff that it is a debt collector that is attempting to collect a debt and that any information obtained will be used for that purpose, and by failing to disclose in subsequent communications that the communication is from a debt collection.

WHEREFORE, Plaintiff, JERRY CABARRUS, respectfully requests judgment be entered against Defendant, KRAMER AND ASSOCIATES, for the following:

19. Statutory damages pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. 1692k,

20. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. 1692k

21. Any other relief that this Honorable Court deems appropriate.

RESPECTFULLY SUBMITTED,

DATED: April 6, 2011

By: /s/ Shireen Hormozdi
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DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, JERRY CABARRUS, demands a jury trial in this case.

VERIFICATION OF COMPLAINT AND CERTIFICATION

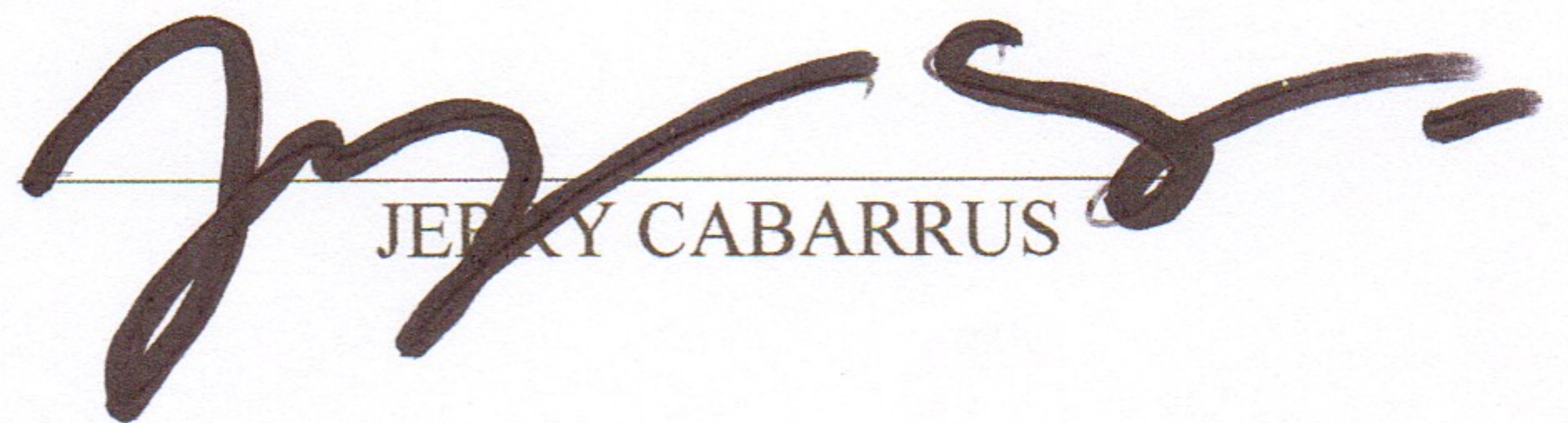
STATE OF GEORGIA

Plaintiff, JERRY CABARRUS, states the following:

1. I am the Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this Complaint in good faith and solely for the purposes set forth in it.
6. Each and every exhibit I have provided to my attorneys which has been attached to this Complaint is a true and correct copy of the original.
7. Except for clearly indicated redactions made by my attorneys where appropriate, I have not altered, changed, modified or fabricated these exhibits, except that some of the attached exhibits may contain some of my own handwritten notations.

Pursuant to 28 U.S.C. § 1746(2), I, JERRY CABARRUS, hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

3/24/2011
Date


JERRY CABARRUS